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November 14, 2000

By Hand

David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243


Re: *Generic Docket Addressing Rural Universal Service*
Docket No. 00-00523

Dear Mr. Waddell:

Enclosed for filing in the above-captioned proceeding are an original and thirteen copies of Richard Guepe's Testimony filed on behalf of AT&T.

If you have questions, please call me.

Sincerely,


Jim Lamoureux

Encls.

POSTED
11-14-00

1 **AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC.**

2 **DIRECT TESTIMONY OF RICHARD GUEPE**

3 **BEFORE THE TENNESSEE REGULATORY AUTHORITY**

4 **DOCKET NO. 00-00523**

5 **November 14, 2000**

6
7

8 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND TITLE.**

9 A. My name is Richard Guepe and my business address is 1200 Peachtree Street, N.E., Atlanta,
10 Georgia 30309. I am employed by AT&T as a District Manager in the Law & Government
11 Affairs organization.

12

13 **Q. BRIEFLY OUTLINE YOUR EDUCATIONAL BACKGROUND AND BUSINESS**
14 **EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.**

15 A. I received a Bachelor of Science Degree in Metallurgical Engineering in 1968 from the
16 University of Notre Dame in South Bend, Indiana. I received a Masters of Business
17 Administration Degree in 1973 from the University of Tennessee in Knoxville, Tennessee.
18 My telecommunications career began in 1973 with South Central Bell Telephone Company in
19 Maryville, Tennessee, as an outside plant engineer. During my tenure with South Central Bell,
20 I held various assignments in outside plant engineering, buildings and real estate, investment
21 separations and division of revenues. At divestiture (1/1/84), I transferred to AT&T where I
22 have held numerous management positions in Atlanta, Georgia, and Basking Ridge, New
23 Jersey, with responsibilities for investment separations, analysis of access charges and tariffs,

1 training development, financial analysis and budgeting, strategic planning, regulatory issues
2 management, product implementation, strategic pricing, and docket management.
3

4 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY STATE PUBLIC SERVICE**
5 **COMMISSIONS?**

6 A. Yes, I have testified on behalf of AT&T in Tennessee, Alabama, Florida, Georgia, North
7 Carolina, Mississippi, and South Carolina on product implementation issues, pricing issues,
8 and policy issues.
9

10 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

11 A: At the outset, I do not believe the concerns expressed by the rural ILECs relate to the need
12 for a universal service fund. It is my understanding that the rural carriers are concerned
13 about maintaining their current earnings levels in light of BellSouth's decision to terminate
14 the existing settlements contracts. If the rural carriers are experiencing earnings difficulties
15 because BellSouth no longer wishes to pay them at the same rate it has in the past, then the
16 TRA should address the issue in the context of a general rate proceeding, not a universal
17 service case. Consequently, I will distinguish how the need for a universal service fund
18 differs from the rural carriers current circumstances. In addition, notwithstanding our legal
19 conclusion that the law does not require a universal service fund for rural carriers, I will
20 address the issues designated by the Authority at the October 31, 2000 pre-hearing
21 conference (except issue 5).
22
23

1 **I. Threshold Issues**

2

3 **Issue 1: a. Is a universal service fund needed at this time for areas served by rural**
4 **carriers? If not, when will a fund be needed?**

5 No. The need for a state universal service fund is to assure the availability of affordable rates
6 for basic residential local exchange service in a competitive environment. In a competitive
7 environment, the price for services that historically may have provided a source of revenues
8 to maintain affordable local exchange service may be driven down, potentially reducing
9 support for affordable basic residential local service. It is the forces of competition that
10 diminish the revenue streams providing universal service support and, thus, create the
11 potential need for a universal service fund. The current concerns of the rural ILECs do not
12 relate to competition. Therefore an intrastate universal service fund is not needed at this time
13 for areas served by rural carriers. A rural intrastate universal service high cost fund will not
14 be needed until the local market in these areas becomes competitive. Until the rural ILECs
15 create an environment that will foster the development of competition, their existing revenue
16 streams will not be threatened by new market entrants. The need to implement a fund is
17 related to the development of local exchange competition. Tenn. Code Ann. §65-5-207
18 clearly states “Universal service, consisting of residential basic local exchange telephone
19 service at affordable rates and carrier of last resort obligations must be maintained after the
20 local telecommunications markets are opened to competition.” Conditions must exist that
21 will enable the development of local competition, i.e., new entrants must initially possess the
22 means to provide service in an existing carrier’s service area. Where the means for providing
23 local service, such as, facilities, interconnection, operating support systems and unbundled

1 network elements (“UNEs”) are not readily available, competition cannot develop and,
2 therefore, concerns about assuring universal service are unfounded. Therefore, a new
3 explicit universal service funding mechanism is not necessary where the means for new
4 entrants to provide service do not exist. The authority should properly recognize that
5 affordable local service is not threatened in Tennessee as a result of competition and
6 therefore a fund is not needed at this time to support basic local residential service.
7

8 **b. Should the current earnings of the rural carrier be considered when determining**
9 **the need and or size of a universal service fund? If so, how?**

10 First, AT&T has no objection to the rural carriers filing petitions for the TRA to review their
11 earnings, just as those carriers would do in the event of any other potential source of revenue
12 loss other than competition. Obviously, consideration of earnings in such cases would be
13 appropriate. Moreover, in the event the TRA determines it is appropriate to develop an
14 intrastate rural carrier universal service high cost fund, the current earnings of the rural
15 carriers also should be considered when examining both the need and size of an intrastate
16 rural universal service high cost fund. If a rural carrier were to request universal service high
17 cost support, a determination of that carrier’s existing earnings level would be a critical first
18 step in the process to determine if a fund is necessary and, if a fund is necessary, to properly
19 size the fund. If a company were exceeding its authorized earnings, it would be difficult, at
20 best, for it to prove a need for support from a universal service high cost fund. If a carrier
21 was found to be under-earning, it should be required to adjust its own rates prior to
22 requesting support from a universal service high cost fund.
23

1 **Issue 2: a. Must a rural carrier waive its rural exemption prior to receiving funds from**
2 **a Rural Universal Service Fund?**

3 In the event the TRA determines it is appropriate to develop an intrastate rural carrier
4 universal service high cost fund, a rural carrier should be required to waive its rural
5 exemption prior to receiving any distribution from the fund. TCA §65-5-207 clearly states
6 that a state universal service fund is to maintain affordable basic local exchange service after
7 the local exchange markets are opened to competition. For the local exchange market of
8 rural carriers to be open to competition, the incumbent local exchange carrier must
9 proactively waive the rural exemption. This is a prerequisite for potential new entrants to
10 compete.

11
12 **b. Must a rural carrier provide unbundled network elements prior to receiving funds**
13 **from a Rural Universal Service Fund?**

14 In the event the TRA determines it is appropriate to develop an intrastate rural carrier
15 universal service high cost fund, a rural carrier should be required to offer unbundled
16 network elements prior to receiving any distribution from the fund. TCA §65-5-207 clearly
17 states that a state universal service fund is to maintain affordable basic local exchange service
18 after the local exchange markets are opened to competition. For the local exchange market
19 of rural carriers to be open to competition, potential new entrants must have the ability to
20 purchase unbundled network elements from the incumbent local exchange carrier.

21 Moreover, unbundled network elements should not be the only pre-requisites to a rural
22 universal service high cost fund. *All* the obligations imposed on other ILECs, including
23 resale, interconnection, and all the requirements associated with those obligations (e.g.,

1 collocation, reciprocal compensation, etc.) should be pre-requisites to the establishment of a
2 rural universal service high cost fund for any of the rural carriers. All of these requirements
3 are prerequisites for potential new entrants to compete in these service areas. Additionally,
4 such requirements are provided for in TCA §65-4-124(a):

5 All telecommunications services providers shall provide non-discriminatory
6 interconnection to their public networks under reasonable terms and conditions; and
7 all telecommunications services providers shall, to the extent that it is technically and
8 financially feasible, be provided desired features, functions and services promptly,
9 and on an unbundled and non-discriminatory basis from all other telecommunications
10 services providers.

11
12 As pointed out earlier, there is a tie between competition and the establishment of a universal
13 service fund. The Telecom Act envisioned three means for new entrants to enter local
14 markets – through resale of ILEC services, through the use of unbundled network elements,
15 and via the new entrant’s own facilities. Regulation must be neutral toward these methods,
16 and all three methods should be available for new entrants to select. These are not all
17 available in rural carrier territory and until they are, the rural carriers should not be eligible to
18 participate in a state high cost fund.

19 20 **II. Preliminary Issues**

21 22 **Issue 1: a. Which services should be supported by an intrastate Rural Universal Service** 23 **System?**

24 In the event the TRA determines it is appropriate to develop an intrastate rural carrier
25 universal service high cost fund, the same services should be supported as determined by the

1 Tennessee Regulatory Authority in Docket 97-00888. In its Interim Order on Phase I of
2 Universal Service for non-rural carriers released May 20, 1998 the authority stated:

3 Consistent with these statutes, the Authority orders the following “core”
4 services to be supported by the intrastate universal service fund: the primary access
5 line consisting of dial tone, touch-tone and usage provided to the premises of a
6 residential customer for the provision of two-way switched voice or data
7 transmission over voice grade facilities, Lifeline, Link-Up Tennessee, access to 911
8 Emergency Services and educational discounts existing on June, 6, 1995.

9 Support for business lines are excluded from the definition since those lines
10 are excluded from the statutory definition in Tenn. Code Ann. § 65-5-207(a) for USF
11 purposes only. Also, intrastate support will only be provided on residential
12 customers’ primary (first) line and not additional lines.
13

14 **b. Should advanced telecommunication services be supported by an intrastate Rural**
15 **Universal Service Fund?**

16 In the event the TRA determines it is appropriate to develop an intrastate rural carrier
17 universal service high cost fund, advanced telecommunications services should not be
18 supported by an intrastate rural universal service high cost fund. The services supported
19 should be consistent with those determined in Docket 97-00888. Tenn. Code Ann. §65-5-
20 207(a) clearly does not include advanced telecommunications services in the definition of
21 universal service. While it may be an admirable economic and social objective to promote
22 advanced telecommunications services, it is beyond the scope of universal service to support
23 these services through a universal service high cost fund for rural carriers.
24

1 **Issue 2: a. Is the Carrier of Last Resort designation necessary when implementing a**
2 **Rural Universal Service Fund? If so, how should Carriers of Last Resort be**
3 **determined?**

4 This issue addresses the concept of eligible telecommunications carrier (ETC) and this should
5 be consistent with the Authority's decision in the non-rural carrier USF docket. In its Interim
6 Order on Phase I of Universal Service in Docket 97-00888, the Authority determined:

7 We do not find the designation of carriers of last resort as articulated in state
8 law irrelevant at this time, but instead recognize that the language of the law has not
9 changed, and in services areas where only one ETC exists, the term as contemplated
10 by statute is applicable. The Authority also finds that the exit requirements in FCC
11 Rule 54.205 provide sufficient exit barriers to address carrier of last resort
12 obligations required by TCA §65-5-207(a).

13 The Authority should be consistent in the rural USF docket with its finding in the Non-rural
14 USF docket.
15
16

17 **Issue 3: a. Is a Rural Universal Service fund necessary to ensure affordability of rates in**
18 **rural areas?**

19 No. This is basically the same question as Issue No. 1. Please refer to my response to that
20 question.
21

22 **b. How should affordability of rates in rural areas be determined?**

23 In its Universal Service Order, the FCC concluded that the states have the primary
24 responsibility for determining the affordability of rates. The FCC, in adopting the Joint
25 Board's recommendation, determined that states must take into account both the cost of

1 providing service and non-rate factors, such as the extent of the local calling area, the
2 consumer's income level, the cost of living, the population density, variations in local rate
3 designs, and other relevant areas that the state authorities may deem appropriate. AT&T
4 supports these considerations.

5 With respect to the appropriate level of "affordable" rates for supported services, AT&T
6 believes that affordable rates are in excess of existing rate levels; however, since a rural
7 universal service high cost fund is not required, a mechanism or study to determine actual
8 affordable rate levels is not necessary.

9
10 **Issue 4: a. How should implicit and explicit subsidies in the current rates of rural**
11 **providers be determined?**

12 Since it is not appropriate or necessary to establish an intrastate rural universal service high
13 cost fund, the TRA need not address this issue. In the event the Authority determines to
14 proceed with the implementation of a rural carrier high cost fund, there is no need to examine
15 individual services. The Authority needs to 1) ascertain appropriate earnings levels, 2)
16 determine whether residential service is profitable, i.e., are revenues from residential
17 customers covering the cost to provide basic local residential exchange service. If the answer
18 is 'yes', no external subsidy or fund is required, unless the TRA determines that some prices
19 within the basket of services that recover the cost of universal service were inappropriate and
20 should be reduced, at which time a fund could be necessary.

21
22 **b. Is there a statutory requirement or need to remove implicit subsidies from rates of**
23 **rural providers?**

1 No, there is nothing in state or federal statutes that mandate the TRA to remove “implicit”
2 subsidies from the rates of rural providers.

3
4 **Issue 6: a. What cost model/method and methodology should be adopted to calculate**
5 **needed universal service support in rural areas? (i.e. forward looking, TELRIC,**
6 **embedded, etc.)**

7 Since it is not appropriate or necessary to establish an intrastate rural universal service high
8 cost fund, the TRA need not adopt a cost model/methodology to calculate universal service
9 high cost support in rural areas at this time. The treatment of rural carriers is being examined
10 by the Federal-State Joint Board and FCC, and the TRA should wait until the FCC
11 determines an appropriate methodology for rural carriers prior to making a decision on this
12 matter. At the federal level for these companies, the FCC has determined not to even begin
13 to develop new support mechanisms until 2001. These rural companies are retaining the
14 funding they receive under the old federal support mechanisms as well as interstate access
15 revenues. With no competition in these areas, universal service is not threatened, no fund is
16 necessary, and it is not necessary to develop a cost methodology to evaluate universal
17 service.

18
19 **b. Should the revenue benchmark approach as adopted by the TRA for non rural**
20 **providers be used for identifying high cost Universal Service support in areas served by**
21 **rural carriers?**

22 Since a rural high cost fund is neither needed nor supported by state statute, this issue need
23 not be addressed at this time. In the event the Authority determines to move forward with

1 implementing a rural high cost fund, the Authority should be consistent with its decision in
2 Docket 97-00888.

3
4 **Issue 7: a. Should wireless to wireless calls and calls with wireless termination be**
5 **included in the Rural Universal Service Fund?**

6 No, wireless carriers should only be assessed based on revenues from originating calls that
7 terminate on the public switched network to avoid paying double for universal service since,
8 unlike customers of other services, wireless customers typically pay for each call whether
9 they are on the originating or terminating end. Wireless to wireless calls should not be
10 included.

11
12 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

13 **A.** Yes.